

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ABRAHAM OSORIO,

Defendant.

DECISION AND ORDER

14-CR-6105DGL
21-CR-6079DGL

Defendant Abraham Osorio moves by counsel (the Federal Public Defender) for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). The motion is based on an amendment to the United States Sentencing Guidelines (U.S.S.G.) § 4A1.1(d), effective November 1, 2023, which results in a lower guideline range for the defendant.

Furthermore, the Sentencing Commission voted to apply the amendment retroactively, *see* U.S.S.G. § 1B1.10. The effective date though of the retroactivity amendment is February 1, 2024.

Defendant's motion was filed on November 30, 2023 (Dkt. #266, 14-CR-6105; Dkt. #307, 21-CR-6079). The United States Probation Office filed a Supplemental Presentence Report on December 1, 2023 (Dkt. #268, 14-CR-6105; Dkt. #308, 21-CR-6079). The Government filed its Opposition to the motion on December 15, 2023 (Dkt. #269, 14-CR-6105; Dkt. #309, 21-CR-6079) and the defendant filed a Reply to the Government's Opposition on December 19, 2023 (Dkt. #270, 14-CR-6105; Dkt. #310, 21-CR-6079). In addition, the United

States Probation Office filed an Amended Supplemental Presentence Report on December 19, 2023 (Dkt. #271, 14-CR-6105; Dkt. #311, 21-CR-6079).

The statute and caselaw directs that the Court must first determine whether a defendant is eligible for a sentence modification. Then the Court must determine the guideline range that would have been applicable had the relevant amendment been in effect. Generally, U.S.S.G. § 1B1.10(b)(2) limits the extent of the reduction and the Court may not reduce the term to less than the minimum of the amended guideline range. The other important requirement is that the Court must consider any applicable sentencing factor under 18 U.S.C. § 3553(a) and determine whether, in its discretion, the reduction is warranted on the particular circumstances of the case.

I am familiar with this defendant, his conviction, and prior sentence. I have reviewed all of the matters submitted and carefully considered the sentencing factors under 18 U.S.C. § 3553(a). I hereby GRANT defendant's motion for a sentence reduction.

The Government concedes that defendant is eligible for a reduction. I reduce the sentence on 14-CR-6105 to 63 months; and reduce the sentence on 21-CR-6079 to 75 months, concurrent, effective February 1, 2024.

CONCLUSION

Defendant Abraham Osorio's motion for a reduction of sentence (Dkt. #266, 14-CR-6105; Dkt. #307, 21-CR-6079) is hereby GRANTED, and defendant's sentence on

14-CR-6105 is reduced to 63 months, and his sentence on 21-CR-6079 is reduced to 75 months, concurrent, effective February 1, 2024.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer". The signature is fluid and cursive, with the first name "David" and last name "Larimer" clearly legible. It is positioned above a horizontal line.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
January 10, 2024.